REMARKS

Claims 1, 2, 6, 7, and 9-12 were pending in the subject application. Applicants have amended claim 1 to delete recitation of "a poly-meta-xylylene pimelamide resin." The specification has been amended as indicated above to reclassify Example 3 as Comparative Example 9 because the former Example 3 described the use of MXD-7, a poly-meta-xylylene pimelamide resin now deleted from the claims, as polyamide resin (A). These amendments do not raise any issue of new matter. Accordingly, applicants respectfully request that this Amendment be entered into the application. Upon entry of this Amendment, claims 1, 2, 6, 7, and 9-12 will still be pending and under examination.

Rejection of Claims 1, 2, 6, 7, and 9-12 under 35 U.S.C. §103(a)

The Examiner rejected claims 1, 2, 6, 7, and 9-12 under 35 U.S.C. §103(a) as allegedly obvious over U.S. Patent No. 5,147,944 ("Takeda") in view of U.S. Patent No. ("Tamura") for the reasons of record, and maintained that Takeda's disclosure clearly includes poly-meta-xylylene pimelamide resin.

Applicants respectfully traverse this rejection. The recitation of "a poly-meta-xylylene pimelamide resin" (hereinafter MXD-7) has been deleted from claim 1. Applicants assert that the polyamide resin employed in the now claimed invention is not described or suggested by Takeda in view of Tamura. Applicants further assert that in comparison to the use of (i) MXD-6 described in Takeda and in Tamura, as well as (ii) MXD-7 that is no longer recited in claim 1, the use of polyamide resin (A) in the now claimed invention exhibits unexpectedly superior properties both with regard to impact strength at a low temperature of -40°C, and as an alcohol-containing gasoline barrier. In support of this assertion, applicants attach hereto a Declaration under 37 C.F.R. §1.132 by Gaku Maruyama ("the Declaration"), one of the inventors of the subject application, which demonstrates the unexpected superiority of the present invention.

Applicants note that in the experiment reported in the Declaration, all variables in Example 1, Comparative Example 7 and Comparative Example 9 were the same, except for the polyamide resin (A). MXD-6T (a polyamide resin comprising meta-xylylenediamine, terephthalic acid and adipic acid) was used in Ex. 1; MXD-6 was used in Comparative Example 7, and MXD-7 was used in Comparative Example 9. In comparison to the experimental results reported in the Declaration, Example 1 of the present invention using

MXD-6T exhibited unexpectedly superior properties in terms of higher Izod Impact and lower permeability as compared to Comparative Examples 7 and 9 using MXD-6 and MXD-7, respectively. *See* Fig. 1 of the Declaration.

As explained in the Declaration, *see* page 6, Figure 1 shows the relationship between the [izod impact strength (J/m) at -40°C] ("Izod Impact") and [alcohol-containing gasoline barrier property] ("Permeability") for different polyamide resins appearing in the Examples and Comparative Examples of Tables 1-6 of the Declaration. In Figure 1, the numeral values in parentheses show the amount (%) of resin (B). The plotted open circles in the upper left of the figure show resins that are superior in both Izod Impact and Permeability. These open circles represent compositions exemplified in the present invention, whereas the filled circles represent compositions outside the scope of the present invention. Applicants note that all plots of the compositions exemplified in the present invention are located above and to the left of the line connecting MXD-6(0), MXD-6(20), MXD-6(35) and MXD-6(80). Thus, it is clear that the use of polyamide resin of the present invention is superior with regard to both the impact strength at a low temperature and as an alcohol-containing gasoline barrier, compared to the use of MXD-6 described in Takeda and in Tamura.

Moreover, in the experiment reported in the Declaration, all variables in Examples 6, 9, 10, 12 and 13 were the same, except for the polyamide resin (A). MXD-6T was used in Example 6, and MXD-6CHDA (polyamide resin comprising meta-xylylenediamine, cyclohexane-dicarboxylic acid and adipic acid) was used in Examples 9, 10, 12 and 13. In comparison to the reported experimental results, Examples 9, 10, 12 and 13 of the present invention using MXD-6CHDA exhibited higher Izod Impact and equivalent permeability as compared to Example 6 using MXD-6T. *See* Fig. 1 of the Declaration. Applicants maintain that in view of these results, combined with the above-described results relating to Example 1 and Comparative Examples 7 and 9, it is clear that use of MXD-6CHDA is also unexpectedly superior to the use of MXD-6 and MXD-7.

Based on the foregoing, it is evident that the claimed material for a fuel system part using a polyamide resin comprising meta-xylylenediamine, terephthalic acid and adipic acid (MXD-6T) or a polyamide resin comprising meta-xylylenediamine, cyclohexanedicarboxylic acid and adipic acid (MXD-6CHDA), has superior Izod Impact and superior permeability compared to a material using MXD-6 or MXD-7. Accordingly, applicants maintain that the

now claimed invention provides a unexpectedly superior effects compared to the materials disclosed in the cited references.

Applicants note that to reject a claim as obvious, the Examiner must articulate, *inter alia*, the following:

> (1) a finding that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference;
> (2) ...
> (3) a finding that one of ordinary skill in the art would have recognized that the results of the combination were predictable; and
> (4) ...
> The rationale to support a conclusion that the claim would have been obvious is that all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination yielded nothing more than predictable results to one of ordinary skill in the art.

See M.P.E.P. §2143(A) (emphasis added). Applicants reiterate that Takeda and Tamura, alone or in combination, do not teach every element of the rejected claims. Further, in comparison to the use of MXD-6 described in Takeda and in Tamura, the polyamide resin used in the claimed invention exhibits superior properties both with regard to impact strength at a low temperature of -40°C and as an alcohol-containing gasoline barrier that are not predictable results to one of ordinary skill in the art provided with the teachings of Takeda and Tamura. Accordingly, for at least the above reasons, applicants maintain that independent claim 1, and claims 2, 6, 7, and 9-12 that depend directly or indirectly therefrom, are not obvious over Takeda in view of Tamura. Withdrawal of this ground of rejection is therefore respectfully requested.

CONCLUSION

In view of the forgoing remarks, applicants respectfully submit that all of the now pending claims are in condition for allowance, which action is earnestly solicited.

No fee is deemed necessary in connection with the filing of this Amendment. However, in the event that the filing of this paper is deemed not timely, applicants petition for an appropriate extension of time. The Office is authorized to charge such petition fee and any other fees that may be required in relation to this paper to Kenyon & Kenyon Deposit Account No. 11-0600.

Respectfully submitted,
KENYON & KENYON LLP

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